

APPENDIX-1

ANNUAL CERTIFICATIONS, REPRESENTATIONS,

AND

WARRANTIES

For

POULTRY AND EGG PRODUCTS



valid through June 30, 2004

Appendix-1 for Poultry and Egg Products

(Annual Certifications, Representations, and Warranties)

These certifications concern matters within the jurisdiction of an agency of the United States and the making of a false, fictitious, or fraudulent certification may render the maker subject to prosecution under the United States Code, including 18 U.S.C. Section 1001, and subject to civil or administrative action, including suspension or debarment.

This Appendix is incorporated by reference to all United States Department of Agriculture, Agricultural Marketing Service, Poultry Programs Announcements and must be submitted to the Contracting Officer so that a determination of responsibility can be made with respect to offers submitted in response to invitations issued under all Poultry Programs Announcements. The Poultry Programs will retain this Appendix on file as the Offeror's certifications, representations, and warranties for subsequent invitations for offers under all Poultry Programs Announcements. By signing an offer, the Offeror certifies and warrants that the Appendix on file is current, accurate, and true. Offerors are responsible for updating this Appendix as may be necessary with each offer submitted.

A false certification may result in rejection of the offer, suspension and debarment, termination of the contract, liability for damages under the provisions of USDA-1, civil damages, and criminal prosecution.

1. Buy American Certification

By submitting an offer, the Offeror certifies that end products to be furnished will be of 100 percent domestic origin as defined in section I.F. of the Announcement. This provision is a deviation from 48 C.F.R. Part 25.

2. Domestic Products Certification

A. Responsibility of Offeror

Offeror certifies that:

1. The Contractor agrees to maintain records including, but not limited to, invoices, production, and inventory records evidencing product origin; and to make such records available for review by the Government in accordance with Article 76 of USDA-1.
2. Offeror (DOES) (DOES NOT) process or handle poultry and/or egg products including maltodextrin (products) originating from sources other than the United States, its territories or possessions, Puerto Rico, or the Trust Territories of the Pacific Islands. If the Contractor processes or handles products originating from sources other than U.S. production, Contractor agrees to develop and maintain an identification and record system for these products to ensure they are segregated and not used to fulfil this contract and make such segregation plans available to the Contracting Officer or agent thereof upon request.
3. The Contractor agrees to include section I.F. of the applicable Announcement, "Domestic Products," in its entirety in all subcontracts for agricultural supplies used in fulfilling this contract.

B. In making each shipment under the contract, the Contractor is certifying that all products delivered to USDA under the contract are domestic as defined in section I.F. of the applicable Announcement.

3. Taxpayer Identification Number (TIN)

Prior to submitting an offer, offerors must submit a Taxpayer Identification Number as required by FAR at 48 C.F.R. § 52.204-3.

A. Definitions

“Common parent,” used in this provision, means that corporate entity that owns or controls an affiliated group of corporations that files its Federal income tax returns on a consolidated basis, and of which the offeror is a member.

“Taxpayer Identification Number (TIN),” as used in this provision, means the number required by the Internal Revenue Service (IRS) to be used by the offeror in reporting income tax and other returns. The TIN may be either a Social Security Number or an Employer Identification Number.

B. All offerors must submit the information required in paragraphs (D) through (F) of this provision to comply with debt collection requirements of 31 U.S.C. 7701(c) and 3325(d), reporting requirements of 26 U.S.C. 6041, 6041A, and 6050M, and implementing regulations issued by the IRS. If the resulting contract is subject to the payment reporting requirements described in FAR 4.904, the failure or refusal by the offeror to furnish the information may result in a 31 percent reduction of payments otherwise due under the contract.

C. The TIN may be used by the Government to collect and report on any delinquent amounts arising out of the offeror’s relationship with the Government (31 U.S.C. 7701(c)(3)). If the resulting contract is subject to the payment reporting requirements described in FAR 4.904, the TIN provided hereunder may be matched with IRS records to verify the accuracy of the offeror’s TIN.

D. Taxpayer Identification Number (TIN) -

- ☐ TIN: _____
- ☐ TIN has been applied for.

E. Type of Organization -

- ☐ Sole proprietorship;
- ☐ Partnership;
- ☐ Corporate entity (not tax-exempt);
- ☐ Corporate entity (tax-exempt);
- ☐ Government entity (Federal, State, or local);
- ☐ Foreign government;
- ☐ International organization per 26 C.F.R. 1.6049-4;
- ☐ Other _____.

F. Common Parent -

☐ Offeror is not owned or controlled by a common parent as defined in paragraph 3.A. of this section.

☐ Name and TIN of common parent:

Name _____

TIN _____

4. Affirmative Action Compliance (Circle One)

Offeror represents that it:

- A. (HAS) (HAS NOT) developed and (HAS) (HAS NOT) on file, at each establishment, affirmative action programs required by the rules and regulations of the Secretary of Labor (41 C.F.R. § 60-1 and 60-2); or
- B. (HAS NOT) previously had contracts subject to written affirmative action program requirement of the rules and regulations of the Secretary of Labor.

5. Previous Contracts and Compliance Reports (Circle One)

Offeror represents that it:

- A. (HAS) (HAS NOT) participated in a previous contract or subcontract subject to the "Equal Opportunity" clause of Article 41 of USDA-1.
- B. (HAS) (HAS NOT) filed all required compliance reports; and
- C. (WILL) obtain representations indicating submission of required compliance reports signed by proposed subcontractors prior to subcontract awards.

6. Contingent Fee Representation (Circle One)

Offeror represents that, except for full-time, bona fide employees working solely for the offeror, the offeror:

- A. (HAS) (HAS NOT) employed or retained any person or company to solicit or obtain this contract; and
- B. (HAS) (HAS NOT) paid, or agreed to pay, to any person or company employed or retained to solicit or obtain this contract for any commission, percentage, brokerage, or other fee contingent upon, or resulting from, the award of this contract.

7. Small Business Program Representation

A. North American Industry Classification System (NAICS)

1. The NAICS code for this acquisition is 311615.
2. The small business size standard is 500 employees or less.
3. The small business size standard for a concern which submits an offer in its own name, other than on a construction or service contract, but which proposes to furnish a product which it did not itself manufacture, is 500 employees.

B. Definitions

“Service-disabled veteran-owned small business concern” as used in this provision, means a small business concern -

1. Not less than 51 percent of which is owned by one or more service-disabled veterans or, in the case of any publicly owned business, not less than 51 percent of the stock of which is owned by one or more service-disabled veterans; and
2. The management and daily business operations of which are controlled by one or more service-disabled veterans or, in the case of a veteran with a permanent and severe disability, the spouse or permanent caregiver of such veteran.
3. Service-disabled veteran means a veteran, as defined in 38 U.S.C. 101(2), with a disability that is service-connected, as defined in 38 U.S.C. 101(16).

“Small business concern” as used in this provision, means a concern, including its affiliates, that is independently owned and operated, not dominant in the field of operation in which it is bidding on Government contracts, and qualified as a small business under the criteria in 13 C.F.R. Part 121 and the size standard in paragraph (A) of this provision.

“Veteran-owned small business concern” as used in this provision, means a small business concern -

1. Not less than 51 percent of which is owned by one or more veterans (as defined at 38 U.S.C. 101(2)) or, in the case of any publicly owned business, not less than 51 percent of the stock of which is owned by one or more veterans; and
2. The management and daily business operations of which are controlled by one or more veterans.

“Woman-owned small business concern” as used in this provision, means a small business concern -

1. Which is at least 51 percent owned by one or more women or, in the case of any publicly owned business, at least 51 percent of the stock of which is owned by one or more women; and
2. Whose management and daily business operations are controlled by one or more women.

C. Representations

1. The offeror represents as a part of this offer that it (IS) (IS NOT) a small business concern.
2. (Complete only if the offeror represented itself as a small business concern in paragraph (C)(1) of this provision.) The offeror represents, for general statistical purposes, that it (IS) (IS NOT) a small disadvantaged business concern as defined in 13 C.F.R. 124.1002.
3. (Complete only if the offeror represented itself as a small business concern in paragraph (C)(1) of this provision.) The offeror represents as part of its offer that it (IS) (IS NOT) a women-owned small business concern.
4. (Complete only if the offeror represented itself as a small business concern in paragraph (C)(1) of this provision.) The offeror represents as part of its offer that it (IS) (IS NOT) a veteran-owned small business concern.
5. (Complete only if the offeror represented itself as a veteran-owned small business concern in paragraph (C)(4) of this provision.) The offeror represents as part of its offer that it (IS) (IS NOT) a service-disabled veteran-owned small business concern.
6. (Complete only if the offeror represented itself as a small business concern in paragraph (C)(1) of this provision.) The offeror represents as part of its offer that -
 - a. It (IS) (IS NOT) a HUBZone small business concern listed, on the date of this representation, on the List of Qualified HUBZone Small Business Concerns maintained by the Small Business Administration, and no material change in ownership and control, principal office of ownership, or HUBZone employee percentage has occurred since it was certified by the Small Business Administration in accordance with 13 C.F.R. Part 126; and

- b. It (IS) (IS NOT) a joint venture that complies with the requirements of 13 C.F.R. Part 126, and the representation in paragraph (C)(6)(a) of this provision is accurate for HUBZone small business concern or concerns that are participating in the joint venture. [The offeror shall enter the name or names of the HUBZone small business concern or concerns that are participating in the joint venture: _____.] Each HUBZone small business concern participating in the joint venture shall submit a separate signed copy of the HUBZone representation

D. Notice

1. If this solicitation is for supplies and has been set aside, in whole or in part, for small business concerns, then the clause in this solicitation providing notice of the set-aside contains restrictions on the source of the end items to be furnished.
2. Under 15 U.S.C. 645(c), any person who misrepresents a firm's status as a small, HUBZone small, small disadvantaged, or women-owned small business concern in order to obtain a contract to be awarded under the preference programs established pursuant to section 8(a), 8(d), 9 and 15 of the Small Business Act or any other provision of Federal law that specifically references section 8(d) for a definition of program eligibility, shall -
 - a. Be punished by imposition of fine, imprisonment, or both;
 - b. Be subject to administrative remedies, including suspension and debarment; and
 - c. Be ineligible for participation in programs conducted under the authority of the Act.

8. Labor Surplus Area (This provision applies to small business concerns only.)

- A. The bidder's status as a labor surplus area (LSA) concern may affect entitlement to award in case of tie bids. If the bidder wishes to be considered for this priority, the bidder must identify, in the following space, the LSA in which the costs to be incurred on account of manufacturing or production (by the bidder or the first-tier subcontractors) amount to more than 50 percent of the contract price.

- B. Failure to identify the labor surplus areas as specified in paragraph (A) of this provision will preclude the bidder from receiving priority consideration. If the bidder is awarded a contract as a result of receiving priority consideration under this provision and would not have otherwise received award, the bidder shall perform the contract or cause the contract to be performed in accordance with the obligation of an LSA concern.
9. Certification Regarding Debarment, Suspension, Proposed Debarment, and Other Responsibility Matters
- A. The Offeror certifies, to the best of its knowledge and belief, that:
1. The Offeror and/or any of its Principals:
 - a. (ARE) (ARE NOT) presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any Federal agency;
 - b. (HAVE) (HAVE NOT), within the 3-year period preceding this offer, been convicted of or had a civil judgement rendered against them for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, state, or local) contract or subcontract; violation of Federal or state antitrust statutes relating to the submission of offers; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, or receiving stolen property;
 - c. (ARE) (ARE NOT) presently indicted for, or otherwise criminally or civilly charged by a governmental entity with, commission of any of the offenses enumerated in paragraph (A)(1)(b) of this provision; and
 2. The offeror, aside from the offenses enumerated in paragraphs (A)(1)(a), (b), and (c) of this provision, (HAS) (HAS NOT) within the past 3 years, relative to tax, labor and employment, environmental, antitrust, or consumer protection laws -
 - a. Been convicted of a Federal or State felony (or has any Federal or State felony indictments currently pending against them); or
 - b. Had a Federal court judgement in a civil case brought by the United States rendered against them; or
 - c. Had an adverse decision by a federal administrative law judge, board, or commission indicating a willful violation of law.

- d. If the offeror has responded affirmatively, the offeror shall provide additional information if requested by the Contracting Officer; and
- 3. The offeror (HAS) (HAS NOT), within a 3-year period preceding this offer, had one or more contracts terminated for default by any Federal agency.
- 4. “Principals,” for the purposes of this certification, means officers, directors, owners, partners, and persons having primary management or supervisory responsibilities within a business entity (e.g., general manager, plant manager, head of a subsidiary, division, or business segment, and similar positions).
- B. The Offeror shall provide immediate written notice to the Contracting Officer if, at any time prior to contract award, the Offeror learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
- C. A certification that any of the items in paragraph (A) of this provision exists will not necessarily result in withholding of an award under this solicitation. However, the certification will be considered in connection with a determination of the Offeror’s responsibility. Failure of the Offeror to furnish a certification or provide such additional information as requested by the Contracting Officer may render the Offeror nonresponsible.
- D. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render, in good faith, the certification required by paragraph (A) of this provision. The knowledge and information of an Offeror is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
- E. The certification in paragraph (A) of this provision is a material representation of fact upon which reliance was placed when making award. If it is later determined that the Offeror knowingly rendered an erroneous certification in addition to other remedies available to the Government, the Contracting Officer may terminate the contract resulting from this solicitation for default.

10. The certifications, warranties, and representations as set forth in the Appendix and Parts C and D of USDA-1, are hereby made.

IN WITNESS WHEREOF, the undersigned has executed this Appendix
_____ day of _____, 20____.

NAME OF FIRM: _____

SIGNATURE¹: _____

TITLE: _____

(Typed Name of Officer)²

TYPE OF FIRM: _____
(Corporation, Partnership, Individual Proprietorship)

ADDRESS: _____

CITY: _____ STATE: _____ ZIP CODE: _____

TELEPHONE NO: _____ FAX NO: _____

¹ Before signing this Appendix, see Article 6 of USDA-1, Signing of Offers

² Officer must be identified in item 7 of the Solicitation Mailing List Application (SF-129)